

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Jimmy Shane Gable,)	
)	
Plaintiff,)	Civil Action No. 8:05-1797-CMC-BHH
)	
vs.)	<u>REPORT OF MAGISTRATE JUDGE</u>
)	
Robert Daly, Nurse Roundtree, Nurse)	
Black, Nurse Freeman,)	
)	
Defendants.)	
_____)	

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On November 22, 2005, the defendants filed a motion for summary judgment. On November 23, 2005, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff elected not to respond to the motion.¹

As the plaintiff is proceeding *pro se*, the court filed a second order on January 20, 2006, giving the plaintiff through February 13, 2006, to file his response to the motion for summary judgment. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff elected not to respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution

¹The docket sheet in this case also indicates that all mail sent to the plaintiff since November 29, 2005, to the address he provided to the court, has been returned as undeliverable. The plaintiff was advised by order dated July 25, 2005 of his responsibility to notify the court *in writing* if his address changed. The petitioner has obviously failed to do so.

pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

s/Bruce H. Hendricks
United States Magistrate Judge

April 28, 2006

Greenville, South Carolina